

Central Information Commission

CIC/OP/C/2009/00079-AD

Dated October 21 , 2010

Name of the Applicant : **Mr. Susant Kumar Sahoo**

Name of the Public Authority : **Railway Womens' Welfare Central Organisation**

Background

1. The Applicant filed an RTI application dated 18.06.2008 with the PIO, Railway Womens' Welfare Central Organisation seeking attested photocopy of the letter dated 14.03.2002 issued by the organisation regarding criteria, guidelines, terms and conditions for functioning of English Medium Schools at divisional level by the Womens' Welfare Central Organisation (hereinafter referred to as "RWWCO"). The Applicant also queried whether any new guidelines had been formulated by the organisation regarding functioning of English Medium Schools at divisional level, and sought copies thereof. Upon non receipt of any response from the PIO, the Applicant was constrained to file a First Appeal on 06.10.2008. However, the First Appeal was also not responded by the said Organisation.
2. Therefore, being repeatedly denied any response and/or information whatsoever by the said Organisation, the Applicant was constrained to approach the Central Information Commission on 17.01.2009, seeking redressal of his grievances while reiterating the entire sequence of events leading to the filing of the instant Appeal.
3. The Bench vide its order dated 14.06.2010 informed the parties that the instant case had been registered as a Complaint. Furthermore, the Commission directed the PIO to provide the information as sought by the Complainant by 30th July 2010 and appear before the Commission on 09.08.2010 with relevant documents and also to explain in writing to Show Cause as to why penal proceedings under the RTI Act 2005 be not invoked against the PIO for the delay in providing the information/response.

4. Pursuant to the CIC's order dated 14.06.2010, the Ministry of Railway clarified its position by the letter dated 28.07.2010 submitting a brief of the concerned Directorate alongwith explaining that since the Organisation viz. Railway Womens' Welfare Central Organisation is neither controlled nor funded by the Ministry of Railways. Therefore, information pertaining to the RWWCO were not available with the Ministry and the Organisation is not a Public Authority as per the contention of the Ministry.
5. However, the Commission felt it necessary to hear the contention of the RWWCO before determining the fate of the Complaint or even whether the Organisation is a Public Authority or not. Hence during the hearing held on 09.08.2010, the following directions were issued by the Commission.

*“.....6. The Commission however, believes that there is a need to determine whether Railway Women's Welfare Central Organization is a Public Authority or not before disposing off this appeal. The concerned officer of the Organization is therefore directed to submit a detailed write up about the Organization, to the Commission as discussed during the hearing. The Appellant too may submit his arguments in respect of his contention that the Organization is a Public Authority. These submissions should be addressed to Shri G.Subramanian, Deputy Registrar, Central Information Commission, Club Building, Old JNU Campus, New Delhi 110 067 and should reach him by 20.9.09. The concerned officer from the Organization, the CPIO from the Ministry of Railways and the Appellant are all directed to appear before the Commission on **28th September 2010 at 10.30 hrs** so that the appeal can be disposed of. The PIO, Ministry of Railways may forward a copy of this Order to the concerned officer in charge of the Women's Welfare Organization.....”*

6. The PIO cum DGM (G), N.F. Railway, Maligaon by his letter dated 25.08.2010 submitted that neither they had received the RTI application in question nor did the case pertain to their Division. The case, as per the PIO, was related to the Khurda Division and hence the N F Railway had nothing to submit in the case. This was followed by a letter dated 17.09.2010 from the Secretary, Railway Womens' Welfare Central Organisation providing a detailed write up in response to the CIC order dated 09.08.2010, discussed hereinabove. The said submissions provided the background of the formation of the RWWCO and went ahead to demonstrate why they are not a Public Authority. It has been indicated that the RWWCO is not in receipt of any financial grant from either the Ministry or the Government, as corroborated from the Ministry's letter dated 28.07.2010 discussed in one of the preceding paragraphs. In fact it has been categorically mentioned that being a welfare organisation they donated Rs. 25 lakhs to the PM's National Relief Fund for rehabilitation of the victims of the natural calamity that occurred in Leh. It has further been clarified by the RWWCO that their financial requirements and commitments to meet the regular and specific activities are met by raising subscriptions, organizing cultural shows,

melas, bringing out souvenirs etc. apart from re appropriating the marginal profits from their ventures like the Masala Center or the Nursery School. The interest earned on fixed deposits is also utilized to finance the annual scholarships and render educational assistance to non gazetted staff. The submissions of the RWWCO further dealt with the specific question as to why they cannot be classified as a Public Authority as understood under the provisions of the Section 2(h) of the RTI Act 2005. It has been contended by the RWWCO that being a non governmental organisation, involved solely in welfare activities they cannot be termed as a public authority and placed reliance on the decision of the Commission dated 18.03.2009 passed in the Appeal no. CIC/WB/2007/01155-SM in the case of Army Wives Welfare Organisation. The RWWCO also placed on record their financial statements for past five years as also their Memorandum of Association.

7. The Bench of Mrs. Annapurna Dixit, Information Commissioner, scheduled the hearing on September 28th, 2010 as already decided in the last hearing.
8. Mr. A K Sharma, US; Mr. Anil Kumar Gulati, Chairman, HRR, Railway Board; Mr. Deepak Virmani, CA for the RWWCO and Mr. Rakesh Kumar, SO/RTI Cell, Railway Board represented the Public Authority.
9. The Complainant was not present during the hearing.

DECISION

10. In view of the facts and submissions presented before us, it is clear that even the inclusive definition of the term "public authority" under Section 2(h) of the RTI Act, 2005 cannot bring RWWCO within its fold, as it is not a body either owned or controlled or substantially financed by the Government. It has not been setup by an Act or even by an official Notification. The Section 2 (h) of the Act defines the "Public Authority" as follows:

"public authority" means any authority or body or institution of self-government established or constituted

—

(a) by or under the Constitution;

(b) by any other law made by Parliament;

(c) by any other law made by State Legislature;

(d) by notification issued or order made by the appropriate Government,

and includes any —

- (i) body owned, controlled or substantially financed;*
- (ii) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government.*

It is not the case of the Complainant that the RWWCO is controlled or has been substantially financed by the Government. Thus the key ingredients of the Section 2 (h) of the RTI Act 2005 are clearly amiss qua the RWWCO.

11. Perusal of the various documents placed on record by the Commission reveals that the RWWCO is a wholly self contained, self sufficient organisation formed as a Registered Society by the Railway Officers' wives rendering various welfare activities out of the funds collected by its own diversified activities. Therefore, there is neither any control nor role of the Government in their activities. The constitution of the members and management council governing the organisation are wives of the Railway Officers in various designations. Neither the Memorandum of Association nor the Financial statements of the RWWCO indicate any authority or control of the Government over the affairs of the organisation.
12. For the sake of getting a complete picture, one may also deliberate as to whether any information concerning the RWWCO can be accessed by the Railway Board or by its CPIO under Section 2(f) of the Right to Information Act. Section 2(f) of the RTI Act 2005 includes any information concerning a private body which can be accessed by a public authority **under any other law** for the time being in force. But no legal provision has been presented before us which enables the Ministry of Railway or the Railway Board or its CPIO to call for or access any information held by RWWCO. In the absence of an explicit legal provision the RWWCO will be under no obligation to part with any information concerning itself to the Ministry of Railway or the Railway Board if it so desires.
13. The Commission also considers the decision relied upon by the RWWCO as also the decision dated 29.01.2007 passed by the Commission in the case of Army Welfare Housing Organisation wherein similar issue had been handled while declaring that the AWHO is not a Public Authority.
14. In the facts and circumstances of the case, the Commission holds that the documents/information and records of the case as also the well settled position of law very clearly indicate that the RWWCO is not a Public Authority. The Complaint is accordingly dismissed.

(Annapurna Dixit)
Information Commissioner

Authenticated true copy:

(G.Subramanian)
Deputy Registrar

Cc:

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